



December 12, 2017

The Honorable Brian M. Cogan
United States District Judge
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Joaquín Archivaldo Guzmán Loera*
Case No. 09-CR-0466(S-4)(BMC)

Dear Judge Cogan:

I respectfully write the Court to request a modification of the Protective Order governing discovery for the reasons stated below:

The Court issued a Protective Order in this case that regulated how protected discovery should be managed. DE 57. Relevant to this request, the Protective Order states that the protected discovery “must remain in the custody of the Defense Counsel at all times.” *Id.* at § 1(d). This requirement presents an insurmountable obstacle to defense counsel’s ability to prepare for trial and review the discovery with Mr. Guzmán.

My co-counsel, William Purpura, has his offices in Baltimore, MD and I have my offices in Washington, DC. We have two vetted and approved paralegals working in New York. The paralegals will visit Mr. Guzmán and review the protected discovery with him. Under the current Protective Order, neither defense counsel can maintain custody of the discovery and be able to have the paralegals review the discovery daily in New York because of the Protective Order.

To alleviate the government’s concerns about the integrity of the discovery, I have proposed that the discovery be handled as follows: The discovery will be kept on a password protected external hard drive. The discovery drive will be kept in a locked cabinet in a private locked office in New York. The office is for the exclusive use of the trial team. A receptionist at the entrance to the building screens all visitors and the building is locked during non-business hours. Our paralegals will handle the discovery only at the office and will not remove it from the premises except to take it to the MCC to review it with Mr. Guzmán. Once their visit with Mr. Guzmán is complete, they will return the drive and secure it at the office.

Because of the password on the drive, the discovery will not be accessible should the drive be lost or stolen. The government does not object to this requested modification.¹

The Protective Order also requires defense counsel to “keep an accounting of the pages of the Protective Discovery provided to members of the Defense Counsel’s Team.” DE 57 at § 3. Were the Court to grant the modification pertaining to the possession of the protected discovery, the requirement of keeping an accounting of the pages of discovery provided to members of the defense team, in this case the paralegals, is burdensome and unnecessary because the paralegals will have access to the complete discovery production in order to be able to review it with Mr. Guzman. Mr. Guzman requests that this requirement be vacated from the Protective Order. The government has not stated its position with respect to this request.²

The defense respectfully requests a prompt resolution of this request, without which, we cannot review discovery with Mr. Guzmán and be prepared for trial.

Thank you in advance for your consideration of this request.

Respectfully submitted,

BALAREZO LAW

By:



A. Eduardo Balarezo, Esq.
EDNY Bar No. AB7088
400 Seventh Street, NW
Suite 306
Washington, DC 20001
Tel: (202) 639-0999
Fax: (202) 639-0899
E-mail: aeb@balarezolaw.com

Counsel for Joaquin Guzmán Loera

cc: The parties via ECF

¹ Mr. Guzmán suggest that the phrase following the final comma (“, and must remain in the custody of the Defense Counsel at all times.”) of DE 57 paragraph 1(d) be deleted and replaced with a paragraph describing the procedure suggested for safekeeping the protected discovery.

² Mr. Guzmán suggests that the last sentence of DE 57 paragraph 3 be deleted.